

MEMORANDUM OF AGREEMENT
BETWEEN
THE MINISTRY OF DEFENCE OF ISRAEL
AND
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
FOR
A COOPERATIVE PROJECT OF RESEARCH IN THE FIELD OF
ROTORCRAFT AEROMECHANICS AND MAN-MACHINE INTEGRATION TECHNOLOGY

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ARTICLE I

INTRODUCTION

The Ministry of Defence of Israel and the Department of Defense of the United States of America, hereinafter referred to as the "Parties", hereby agree to participate in cooperative research in the field of rotorcraft aeromechanics and Man-Machine Integration Technology.

ARTICLE II

DEFINITION OF TERMS

ANNEX: An addendum to this Agreement which specifically details the tasks to be accomplished in accordance with this Agreement.

BACKGROUND PROJECT INFORMATION: Information not generated in the performance of the Project.

CONTRACT: Any mutually binding legal relationship which obligates a Contractor under this Project to furnish supplies or services, and obligates one or both of the Parties to pay for them.

CONTRACTING: The obtaining of supplies or services by Contract from sources outside the government organizations of the Parties. Contracting includes description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract Administration.

CONTRACTING AGENCY: The entity within the government organization of a Party, who has authority to enter into, administer, and/or terminate Contracts.

CONTRACTING OFFICER: A person representing a Contracting Agency of a Party who has the authority to enter into, administer, and/or terminate Contracts.

CONTRACTOR: Any entity awarded a Contract under this Project by a Party's Contracting Agency.

CONTROLLED UNCLASSIFIED INFORMATION: Unclassified information to which access or distribution limitations have been applied in accordance with national laws and regulations, and which shall be marked and handled in compliance with this Agreement.

DEFENSE PURPOSES: Manufacture or other use in any part of the world by or for the armed forces of any Party, including the furnishing on a grant basis to Third Parties and international organizations for their mutual defense.

FOREGROUND PROJECT INFORMATION: Project Information generated in performance of the Project.

PARTIES: The Government agencies that enter into this Agreement.

PROJECT INFORMATION: Any data, knowledge, fact, or information provided, generated, or used in this Project regardless of form, or type, including that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, patent, or other legal protection.

TECHNOLOGY BASE COMPUTER SOFTWARE: Project Information, including Computer Programs, Computer Data Bases, and computer software documentation on machine readable media or in human readable form developed or used in the course of Technology Base Project efforts.

THIRD PARTY: Any person or other entity whose government or whose governing authority is not a Party to this Agreement.

ARTICLE III

OBJECTIVE AND SCOPE OF WORK

1. Both Parties are engaged in research in the field of rotorcraft aeromechanics and man-machine integration technology for the purpose of improving overall performance of rotorcraft and associated weapons systems, and they have identified certain areas where similar interests exist. This Agreement provides for a cooperative research activity in which complementary efforts shall be performed by each of the Parties and the results and data obtained shall be exchanged in accordance with the provisions set forth therein. The general objective is to develop rotorcraft aeromechanics and man-machine integration technology; specifically to develop analytical techniques, improve experimental capabilities, and generate experimental data bases in the following disciplines of rotorcraft technology: man-machine interface, flight mechanics modelling, and theoretical methods for rotorcraft stabilization and control. This work does not involve the development or exchange of hardware design technologies. Within the three disciplines, four technical tasks have been identified for collaboration during the first thirty-six months of this Agreement. Each of these tasks involve technology that is needed to guide or advance the development of future or emerging systems. Each Party already has an active research program in each area, and there is a balance of facilities and capabilities. A coordinated approach to work on each task has been devised and is described in the Statement of Work at Annex A.

2. The scope of the Agreement provides the basis for a cooperative effort to improve the technology base for rotorcraft by increasing the fundamental knowledge of theoretical methods for rotorcraft stabilization and control and rotorcraft displays. It is intended that the coordination of these shared efforts throughout this cooperative research venture shall benefit both countries by more effective utilization of resources, avoid redundancy of effort as outlined in the Statement of Work (Annex A), and achieving a broader coverage of the fundamental knowledge essential to the advancement of rotorcraft technology.

ARTICLE IV

PROJECT ORGANIZATION AND MANAGEMENT

1. Each Party shall appoint a Project Officer who shall be responsible for the following:

a. Coordinating and monitoring the overall effort to ensure achievement of the objectives of this Agreement.

b. When necessary, recommending to their respective national authorities changes in the project scope or material changes in the level of effort for the overall project.

c. Conducting periodic joint reviews of the project and accomplishments to ensure that the objectives are being met and to evaluate and guide work in progress. These meetings shall be held twice each year, once in Israel and once in the United States unless otherwise agreed by the Parties. The host Party shall provide administrative support for the meetings.

d. Providing each Party five copies of the following joint reports:

1. A report prepared at each Joint Review and Planning meeting and submitted by the Project Officers to their respective national authorities. These reports shall be in English and shall summarize work accomplished under the project during the previous 6 month period. They shall be prepared as of the date of the review and forwarded within three months thereafter. These progress reports shall include descriptions and results of research undertaken and conclusions reached.

2. An interim report, in English, due within six months after completion of each task set forth in Annex A. The final report shall summarize the work performed and results achieved under the MOU.

2. The Director of Defence R&D and Commander, U.S. Army Aviation and Troop Command are authorized, when necessary and only within the scope of this Agreement (Article III.2), to revise the individual task statements contained in Annex A to reflect changes made in the technical approaches. Such changes shall be reported through appropriate national channels. These changes shall be by mutual agreement.

3. Direct communication is authorized between the Project Officers for exchange of technical project information, preliminary coordination of visits, and other routine matters pertaining to their responsibilities for implementation of the project, within procedures prescribed by national authorities.

4. The following agencies shall serve as points of contact:

a. For the United States:

Commander, U.S. Army Aviation and Troop Command
4300 Goodfellow Boulevard
St. Louis, Missouri 63120-1798

b. For Israel

Ministry of Defence of Israel
Director of Defence R&D
Hakirya, Tel-Aviv, Israel

ARTICLE V

FINANCIAL ARRANGEMENTS

1. The Parties agree that each Party shall contribute its equitable share of the full costs of the Project, including overhead and administrative costs, that the assignment of work represents an equitable sharing of work to be performed under the Project, and that each Party shall receive an equitable share of the results of the Project.
2. Each Party shall fund the full extent of its participation in this Project. The Parties estimate that each shall expend approximately 1 man year of scientific effort per task in the performance of the obligations under this Agreement in government and/or contractor establishments.
3. The Parties agree to use their best efforts to perform, or to have performed, the work specified in Article III (Objective and Scope of Work) and Annex A and fulfill all the obligations under this Agreement.
4. Each Party shall bear the full costs it incurs for performing, managing, and administering its activities under this Agreement and these costs shall be included as part of each Party's contributions to the Project.
5. Efforts of the Parties over and above the jointly agreed work set forth in Article III (Objective and Scope of Work) and Annex A shall be subject to future mutual agreement by the Parties.
6. The following costs shall be borne entirely by the Party incurring the costs:
 - a. Costs associated with any unique national requirements identified by a Party.
 - b. Any other costs lying outside the scope of this Agreement.
7. A Party shall promptly notify the other Party if available funds are not adequate to fulfill the understandings contained in this Agreement. If a Party notifies the other Party that it is terminating or reducing its funding for this Project, both Parties shall immediately consult with a view toward continuation on a changed or reduced basis. If this is not acceptable to both Parties, then the provisions of Article XVIII (Amendment, Termination, Entry Into Force, and Duration) of this Agreement shall apply.

ARTICLE VI

CONTRACTUAL ARRANGEMENTS

1. If either Party determines that Contracting is necessary to fulfill that Party's obligations under Article III (Objective and Scope of Work) and Annex A, that Party shall contract in accordance with its own national laws, regulations and procedures for all required equipment and services. Sources from both Parties' industries shall be allowed to compete on an equal basis for such Contracts.

2. When one Party individually contracts to undertake a task under this Agreement, it shall be solely responsible for its own Contracting, and the other Party shall not be subject to any liability arising from such Contracts without its written consent.

3. For all Contracting activities performed by either Party, the Project Officers shall be provided a copy of all Statements of Work prior to the development of solicitations to insure that they are consistent with the provisions of this Agreement.

4. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its Contracts (and require its subcontractors to insert in subcontracts) suitable provisions to satisfy the requirements of Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security) and Article XII (Third Party Sales and Transfers) of this Agreement. During the Contracting process, each Party's Contracting Officer shall advise prospective Contractors of their obligations to notify the Contracting Agency immediately if they are subject to any license or agreement that shall restrict that Party's freedom to disclose information or permit its use. The Contracting Officer shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that shall result in restrictions.

5. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Party's Project Officer shall notify the other Party's Project Officer of the restriction(s).

6. Each Party's Project Officer shall promptly notify the other Party's Project Officer of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

ARTICLE VII

LOAN OF MATERIALS, SUPPLIES OR EQUIPMENT

1. The Parties may loan equipment or material to each other as jointly determined to be necessary for the conduct of a specific task identified in Article III (Objective and Scope of Work) and Annex A and shall be based on the principle of reciprocity, although item for item exchanges are not expected or required. A lender is not required to provide equipment or material that would impair its own priorities or requirements or would otherwise be inconsistent with its national laws, regulations or other international agreements. All such loans shall be recorded in supplementary documents to this Agreement. Loans shall be made without charge, whenever possible, in accordance with national laws and regulations. Loan requests shall be submitted in writing, describing the requirement for use in a specific task identified in Article III (Objective and Scope of Work) and Annex A, for review and approval by the Project officers.

2. All equipment or material loaned under this Agreement shall remain the property of the providing Party. Equipment or material loaned under this Agreement shall not be transferred to other nations or Third Parties without the prior written consent of the providing Party. Any equipment or material loaned under this Agreement shall only be used as necessary for the conduct of a specific task as identified in Article III (Objective and Scope of Work) and Annex A.

3. The receiving Party agrees to maintain equipment and material in good order, repair and operable condition and return the items in as good conditions as when received, normal wear and tear excepted. Equipment and material which are lost, destroyed or expended (other than when authorized) while in the custody of the receiving Party shall be reported by the receiving Party through appropriate certifying documentation in accordance with the requirements of the providing Party, and the receiving Party shall reimburse the providing Party to the extent of such lost.

4. Equipment and material may be provided by one Party to the other which are expended or otherwise consumed as part of a specific task identified in Article III (Objective and Scope of Work) and Annex A. In such case, a record of accountability shall be maintained by the receiving Party for the providing Party.

5. The receiving Party shall not make any claim against the providing Party, whether in tort or contract, arising from the receiving Party use of the equipment or material.

6. Unless otherwise specifically provided, the receiving Party shall bear the cost of transportation to the point of destination, and, in the case of items not expended or otherwise consumed, to the place of redelivery specified in the supplementary documents.

7. Data or other information generated through the loan of equipment or material for the conduct of a specific task as identified in Article III (Objective and Scope of Work) and Annex A shall be provided free of charge and reported in accordance with Article IV (Project Organization and Management).

ARTICLE VIII

DISCLOSURE AND USE OF PROJECT INFORMATION

1. Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to enable improvement in the technology base of rotorcraft aeromechanics and man-machine integration technology. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article III (Objective and Scope of Work) of this Agreement.

2. Government Foreground Project Information:

a. Disclosure: Foreground Project Information generated by Government-owned facilities in whole or in part shall be made available to both Parties.

b. Use: Each Party may use this Foreground Project Information without charge for its Defense Purposes; however, if a Party wants to use the Foreground Project Information in a sale or other transfer to a Third Party, the provisions of Article XII (Third Party Sales and Transfers) of this Agreement shall apply.

3. Government Background Project Information:

a. Disclosure: Each Party, upon request, shall disclose to the Project any relevant Project Information in its possession not generated in the performance of the Project, provided that:

(1) The Background Project Information is necessary to or useful in the Project. The Party in possession of the information shall determine whether it is "necessary to" or "useful in" the Project.

(2) The Background Project Information may be made available without incurring liability to holders of proprietary rights.

(3) Disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

b. Use: Background Project Information furnished by Parties may be used by Parties for Project purposes only.

4. Contractor Foreground Project Information:

a. Disclosure: Foreground Project Information generated and delivered by contractors, shall be made available to both Parties.

b. Use: Each Party may use this Foreground Project Information without charge for its Defense Purposes; however, if a Party wants to use the Foreground Project Information in a sale or other transfer to a Third Party, the provisions of Article XII (Third Party Sales and Transfers) of this Agreement shall apply. Additionally, the Parties shall acquire the legal rights to use Contractor Foreground Project Information in a sale.

5. Contractor Background Project Information:

a. Disclosure: Background Project Information generated by contractors outside of this Agreement for this Project and delivered under contracts shall be made available to the Parties provided the following conditions are met:

(1) The Background Project Information is necessary to or useful in the Project. The Parties in possession of the information shall determine whether it is "necessary to" or "useful in" the Project.

(2) The Background Project Information may be made available without incurring liability to holders of proprietary rights.

(3) Disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

b. Use: Background Project Information furnished by Contractors may be used by Parties for Project purposes only.

6. Proprietary Project Information

All proprietary information shall be identified and marked.

7. Patents

a. Where a Party has or can secure the right to file a patent application with regard to a Project Invention, that Party shall consult the other Party regarding the filing of such patent application. The Party having such rights shall in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding such rights, or its contractors, as appropriate, patent applications covering any such Project Invention. If a Party having filed or caused to be filed a patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other to continue the prosecution.

b. Each Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

c. Each Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.

d. Insofar as possible, each Party shall extend to the other Party any relief from patent infringement claims arising in the course of work performed under the Project that it may be able to claim on its own behalf. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries. Each Party is responsible for handling all Patent infringement claims made in its territory and to inform the other Party of such claims and to consult with the other Party during the handling and prior to any settlement of claims.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

1. Except as otherwise provided in this Agreement or authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

a. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information).

b. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph (a) above, and subject to the provisions of Article XII (Third Party Sales and Transfers).

c. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any public access provisions), except as provided in subparagraph (b) above, unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be disclosed to a Third Party or a judicial body under any legislative provision, immediate notification shall be given to the originating Party.

2. To assist in providing the appropriate controls, each Party shall mark such information provided to another Party under this Agreement with a legend containing the country of origin, the conditions of release and a statement to the effect that access to the information is to be controlled.

3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be stored, handled and transmitted in a manner that ensures control as provided for above. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure the Contractors are legally bound to control such information in accordance with the provisions of this Article.

ARTICLE X

VISITS TO ESTABLISHMENTS

1. Each Party shall permit visits to its Government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have appropriate security clearances and a need-to-know.
2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.
3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform with the established visit procedures of the host country. Requests for visits shall bear the name of the Project.
4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with Recurring International Visit Procedures.

ARTICLE XI

SECURITY

It is the intent of the Parties that the Project carried out under this Agreement shall be conducted at the unclassified level. No classified information shall be provided or generated under this Agreement.

ARTICLE XII

THIRD PARTY SALES AND TRANSFERS

1. The Parties shall not sell, transfer title to, or transfer possession of jointly acquired Project Equipment or Foreground Project Information to any Third Party without the prior written consent of the other Party. Furthermore, neither Party shall permit any such sale or transfer, including by the owner of the item, without the prior written consent of the other Party. Such consent shall not be given unless the government of the intended recipient provides advance written assurances that it shall:

a. Not retransfer, or permit the further retransfer of, any equipment or information provided.

b. Only use, or permit the use of, the equipment or information provided for the purposes specified by the Parties.

2. A Party shall not sell, transfer title to, or transfer possession of Project Equipment provided by the other Party or Background Project Information to any Third Party without the prior written consent of the Party which provided such equipment or information. The providing Party is solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

ARTICLE XIII

LIABILITY

1. Claims arising out of the activities taking place under this Agreement shall be dealt with as follows:

a. The Parties waive all their claims, other than contractual claims, against each other, and against the military members and civilian employees of each other's Department or Ministry of Defense, for damage, loss or destruction of property owned or used by its respective Department or Ministry of Defense, if such damage, loss or destruction:

1. was caused by a military member or a civilian employee in the performance of official duties, or

2. arose from the use of any vehicle, vessel or aircraft owned by the other Party and used by its Department or Ministry of Defense, provided that the vehicle, vessel or aircraft causing the damage, loss or destruction was being used for official purposes, or that the damage, loss or destruction was caused to property being so used.

b. The Parties waive all their claims against each other and against the military members and civilian employees of each other's Department or Ministry of Defense for injury or death suffered by any military member or civilian employee of their Department or Ministry of Defense while such member or employee was engaged in the performance of official duties.

c. Nothing herein shall be construed as waiving the claims or suits of individual military members or civilian employees of the respective Department or Ministry of Defense, other civilian employees, or third parties that might exist under applicable law.

d. Claims, other than contractual claims, not covered by paragraphs 1.a and 1.b, shall be dealt with by each Party in accordance with its national law. Each Party shall pay just and reasonable compensation in settlement of meritorious claims for damage, loss, destruction, personal injury or death caused by acts of omissions of the military members or civilian employees of its Department or Ministry of Defense or caused by acts of omissions of others of its civilian employees, when acting in the performance of official duties.